

FILE COPY

BEFORE THE STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION
J. DAVID MANSON, R.L.S.,	:	AND ORDER
RESPONDENT	:	

The State of Wisconsin, Examining Board of Architects, Professional Engineers, Designers and Land Surveyors, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Hearing Examiner, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Hearing Examiner, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Examining Board of Architects, Professional Engineers, Designers and Land Surveyors. Let a copy of this order be served on the respondent by certified mail.

A party aggrieved by this decision may petition the board for rehearing within twenty (20) days after service of this decision pursuant to Wis. Stats. sec. 227.12. The party to be named as respondent in the petition is J. David Manson.

A party aggrieved by this decision may also petition for judicial review by filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings will be held and serving the board and other parties with a copy of the petition for judicial review within thirty (30) days after service of this decision pursuant to Wis. Stats. sec. 227.16. The party to be named as respondent in the petition is the State of Wisconsin Examining Board of Architects, Professional Engineers, Designers and Land Surveyors.

Dated this 5th day of August, 1982.

Percival G. Gagne

pc017-552

BEFORE THE STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	PROPOSED DECISION
J. DAVID MANSON, R.L.S.,	:	
RESPONDENT.	:	

The parties to this proceeding for the purposes of Wis. Stats.
sec. 227.16 are:

J. David Manson
Route #1
Sister Bay, Wisconsin 54234

Examining Board of Architects, Professional
Engineers, Designers and Land Surveyors
1400 East Washington Avenue, Room 288
P.O. Box 8936
Madison, Wisconsin 53708

Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue, Room 183
P.O. Box 8936
Madison, Wisconsin 53708

A Notice of Hearing and Complaint was filed in the above-captioned matter on February 12, 1982. Complainant's attorney, Steven M. Gloe, filed a motion for default judgment on April 8, 1982, as the respondent, J. David Manson, had failed to file a verified Answer as required by Wis. Adm. Code sec. RL 2.09. A hearing on the motion was held on April 26, 1982, at which time respondent failed to appear and complainant's attorney submitted evidence establishing the truth of the allegations contained within the Complaint. An Order Finding Respondent In Default was issued by the Hearing Examiner on April 28, 1982.

A hearing was held on May 28, 1982 in Room 171 at 1400 East Washington Avenue, Madison, Wisconsin. The purpose of the hearing was to allow respondent to present evidence relevant to the disciplinary sanctions, if any, to be imposed. Respondent did not appear, nor did anyone appear upon his behalf. Complainant appeared by attorney Steven M. Gloe, Department of Regulation and Licensing, Division of Enforcement.

Based upon the record, the Hearing Examiner recommends that the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors adopt as its final decision the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. J. David Manson (respondent) was at all times relevant to this proceeding licensed to practice as a land surveyor in this state, pursuant to license number 1339 issued on July 21, 1976. Respondent's registration as a land surveyor expired on January 31, 1980.

RICHARD HALLING

2. On or about July 24, 1979, respondent agreed with Richard Halling (Halling) to survey Halling's property located in Section 26, Township 44 North, Range 6 West, Bayfield County, Wisconsin.

3. On or about October 3, 1979, respondent represented to Halling that the contracted surveying work was completed, except for drawing of the final plat. Halling then paid respondent \$1,500.00, based on respondent's indication that receipt of this money would ensure prompt preparation of the required plat.

4. Respondent has not at any time provided Halling with any plat, survey map, or other work product stemming from the survey referred to in paragraphs 2 and 3 above.

JOHN L. REED

5. On or about August 1, 1979, respondent agreed with John L. Reed (Reed) to survey property belonging to Reed and Elon E. Case (Case) contained in Section 19, Township 43 North, Range 7 West, Bayfield, Wisconsin.

6. On or about September 8, 1979, Reed paid respondent \$400.00 as a retainer for this project. On or about October 31, 1979, respondent billed Reed a total of \$1,104.18 (less the \$400.00 retainer) for "professional services" and falsely represented on the face of the bill that the survey had been completed. Reed and Case paid respondent the amount owing on respondent's bill (\$704.18).

7. Respondent has not at any time provided either Case or Reed any plat, survey or other work product stemming from the survey referred to in paragraphs 5 and 6 above.

JAMES DAVIS

8. On an exact date unknown, but sometime during the early summer of 1979, respondent completed the performance of a land survey and the preparation of a map of survey for James Davis (Davis) on Davis' property comprised of a part of Government Lot 4, Section 6, and Government Lot 1, Section 7, all in Township 50 North, Range 3 West, Bayfield County, Wisconsin.

9. The map failed to bear the stamp and signature of respondent as land surveyor as required by Wis. Adm. Code sec. A-E 5.01(5)(f). In addition, respondent failed to execute the certifying statement appearing on the survey.

CONCLUSIONS OF LAW

1. The Examining Board of Architects, Professional Engineers, Designers and Land Surveyors has jurisdiction to take disciplinary action in this proceeding pursuant to Wis. Stats. sec. 443.12(1).
2. Respondent, by the misconduct described in paragraphs 2, 3 and 4 of the Findings of Fact, is subject to disciplinary action against his license under Wis. Stats. sec. 443.12(1) and Wis. Adm. Code secs. A-E 4.003(3)(c) and 4.03(4).
3. Respondent, by the misconduct described in paragraphs 5, 6 and 7 of the Findings of Fact, is subject to disciplinary action against his license under Wis. Stats. sec. 443.12(1) and Wis. Adm. Code secs. A-E 4.003(3)(c) and 4.03(4).
4. Respondent, by the misconduct described in paragraphs 8 and 9 of the Findings of Fact, is subject to disciplinary action against his license under Wis. Stats. sec. 443.12(1) and Wis. Adm. Code secs. A-E 4.003(3)(b) and A-E 5.01(5)(f).
5. Respondent presently has a right to renew his license under the provisions of Wis. Stats. sec. 443.10(5).

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of J. DAVID MANSON to practice as a land surveyor in the State of Wisconsin (#1339) shall be and hereby is REVOKED, effective the date of the final decision of the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors.

IT IS FURTHER ORDERED that the right of J. DAVID MANSON to renew his license as a land surveyor (#1339) shall be and hereby is REVOKED, effective the date of the final decision of the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors.

OPINION

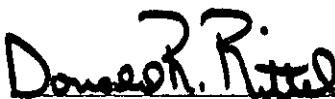
The respondent, J. David Manson, was charged with three counts of misconduct in the practice of land surveying under Wis. Stats. sec. 443.12(1). The first two counts concern allegations that Manson failed to provide clients with proof of having performed surveying work, despite Manson's having received payment therefor. The third charge involves a failure of Manson to stamp and sign a survey map or execute the certifying statement appearing on the survey map.

The charges in this case are very serious and call into question the basic integrity of Manson in dealings with his clients. Manson, however, failed to file a verified Answer to the Complaint, and further failed to appear at either the hearing on complainant's motion for default judgment or the evidentiary hearing. Accordingly, there is no competent evidence in the record to suggest the presence of any mitigating circumstances in this case.

Given the seriousness and repetitive nature of the charges, the examiner has recommended that Manson's license to practice land surveying be revoked and that his present right to renew his license be revoked. The board must be provided with an opportunity for inquiry of Manson prior to permitting him to again practice land surveying. Such inquiry is necessary in order for the board to assure itself, and the public, of the ability of Manson to practice land surveying in a competent and trustworthy manner. This proceeding, given Manson's failure to appear, has not provided the board with that opportunity. Only a revocation of Manson in this case will do so. See, Wis. Stats. sec. 443.12(4).

Dated at Madison, Wisconsin this 12th day of July, 1982.

Respectfully submitted,



Donald R. Rittel
Hearing Examiner

DRR:mda
109-194